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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,930	01/26/2004	Mark W.L. Smith	33103	1929

23589 7590 01/16/2007
HOVEY WILLIAMS LLP
2405 GRAND BLVD., SUITE 400
KANSAS CITY, MO 64108

EXAMINER

PHAM, HUONG Q

ART UNIT	PAPER NUMBER
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3772

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/707,930	Applicant(s) SMITH ET AL.	
	Examiner Huong Q. Pham	Art Unit 3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>6/17/04+7/21/04</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Crowell et al (3,138,156).

Crowell et al teaches an above knee shrinker having every claimed feature of claims 1-5, 7, 14 including a waist belt 13 (figure 2), a tubular fabric receptacle 11 with top and bottom ends, U-shaped edge projecting opening including a pair of spaced apart upright sections. Note that the knee shrinker of Crowell et al is longer than the residual limb, and is capable of being doubled over the residual limb, said receptacle being coupled to the waist belt adjacent the top end so that snug securement of the waist belt about the wearer's waist restricts vertical displacement of the receptacle along the residual limb when the shrinker is donned. As for claim 3, note that each of said upright sections is being generally linear. As for claim 4, note that said bottom section having an arcuate shape. As for claim 5, note the constricting element 17 operable to constrict the receptacle generally adjacent to the distal end of the residual limb when the shrinker is donned. As for claim 7, note that said receptacle being formed

of multi- directional stretchable material. As for claim 14, note the belt receiving channels 23, 24, 25.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 8-13, 15- 36, are rejected under 35 U.S.C. 103(a) as being unpatentable over Crowell et al (3,138,156) in view of Svoboda et al (6,158,253) and/or Smith et al (4,840,635).

Crowell et al teaches that the receptacle 11 is made of multi-directional stretchable elastic material.

Svoboda et al and/or Smith et al teach the type of elastic fabric recited in the claims .

In view of the teaching of Svoboda et al and/or Smith et al, it would have been obvious to one ordinary skill in the art at the time the invention was made to use the type of elastic material as recited in the claims for the knee shrinker of Crowell et al in order to provide the desired degree of stretch, compression, and support.

As for claims 6, 28, note that the constricting element 17 includes a ring 14 which is capable of being received over the receptacle. As for claims 15, 31, note that the use of hook and loop material adjacent the belt ends is well known in the art. It would have

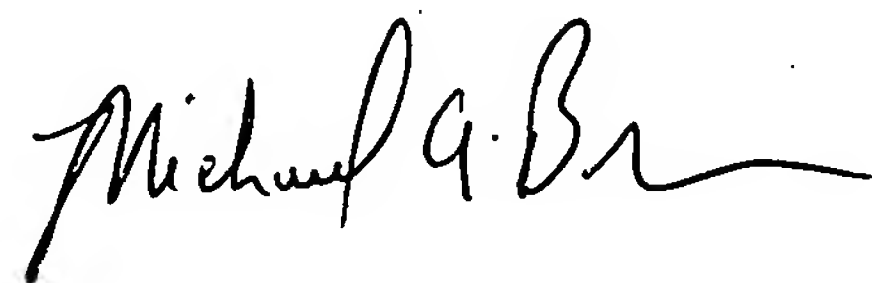
Art Unit: 3772

been obvious to one ordinary skill in the art at the time the invention was made to substitute the belt and buckle fastening mechanism of Crowell et al for hook and loop material fastening mechanism for quick and easy securement purpose. As for claims 19, 35, note that the elastic fabric of Crowell et al is "dyeable".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huong Q. Pham whose telephone number is (571) 272-4980. The examiner can normally be reached on 8:45 AM - 5:15 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571) 272 - 4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



MICHAEL A. BROWN
PRIMARY EXAMINER

January 3, 2007